

# **Task Force on Wildland-Urban Interface Standards**

## **Minutes from Meeting November 17, 2008**

### **Helena**

#### **Present:**

Brian Connelley	Central Valley First District
Pat Cross	Department of Natural Resources and Conservation
Mike Kopitzke	Department of Natural Resources and Conservation
Allen Lorenz	State Fire Marshal
Pat McKelvey	Fire Safe Montana / Lewis & Clark County
Mark Phares	Department of Natural Resources and Conservation
Myra Schults	Montana Association of Counties
Linda Stoll	Missoula County
Scott Waldron	Missoula County

Facilitator: John Moore

The meeting convened at 10:05 a.m.

#### **By consensus, the group reached these decisions:**

1. The WUI Master Guidelines will set the maximum road grade at 10%, unless the local jurisdiction wants to set it lower.
2. In order to be clear that these are guidelines, the language will be changed from “shall” to “should” and “may”; the guidelines will explain that local jurisdictions would need to revert to mandatory language if adopting the guidelines as code.
3. An Editing Group will meet at 9 a.m. on November 20 in Missoula to incorporate all comments and produce a final draft.
4. The draft will go to the distribution list by December 3, with comments due back by December 19.

#### **Editing Group**

Mike Kopitzke  
Scott Waldron  
Mark Phares  
Pat Cross  
Myra Schults

The meeting adjourned at 12:10 p.m.

#### **Discussion Summary** – these are points brought up during the meeting

##### ***Status of the document***

- Where are we?
- We're a bit off from final draft

- water supply not complete
- streets and roads
- Jerry is making no recommendation now
- we sent out the draft, received few comments
- want minimum access / egress in road standards
- where are we going with guidelines?

### ***Road grade***

- e.g. road grade – 10% max is pretty common statewide, some jurisdictions want 8%
- we could set the standard as 10%, unless the local jurisdiction wants less
- don't want to set standards so tight that they result in a lot of variances
- regarding the roads and grade language, we can agree on "10% or less" – it provides direction with flexibility: local solutions to local problems
- we don't want to put a floor on it

### ***Guidelines versus regulations***

- the last plan regarding roads – use the language from the model subdivision regulations, at least those parts that pertain to WUI
- but the subregs aren't yet done
- MACo doesn't want a cross-reference to the subregs in this ARM process
- the intent was to import the language, not refer to it
- a lot of the language refers to "code officials" – counties don't have code officials
- we've been changing that term as we come across it – referring to local jurisdiction
- the International WUI has good guidelines on roads
- DNRC needs to update the existing WUI guide
- a guideline isn't standard or code
- let's get to the money question – we got no response about the type of funding under consideration in Section V
- counties have experience dealing with water and roads – you're not going to get consensus
- but these areas are already addressed in code: NFPA 1 – Uniform Fire Code
- includes access, it's state law
- if a county or fire agency hasn't adopted UFC, how does that fit?
- the county commission is the approving authority, with review beforehand by fire officials
- do we want fire districts to be the "code officials"? – their boards of trustees have to provide adequate service – they could put a subdivision in check, leading to litigation
- the guidelines should read "agency having jurisdiction"
- some people think the county commission doesn't have the authority to deny a subdivision based on fire safety – it gets squishy
- it's in the best interest of the counties to have guidelines that they can choose to adopt – or not

- that's the goal – take comments and work with them to produce next draft; the first draft was bad, and we haven't seen any responsiveness to comments
- these are guidelines – the word “shall” should be stricken entirely – say “should” or “may”
- it's up to local jurisdictions
- the “shall language” was designed to allow local jurisdictions to adopt this language without modification
- but as soon as these guidelines go out with “shall,” some attorney will cite it as mandatory language and demand compliance across the board
- then we should remove the third sentence in the Purpose section: “Some issues, such as road construction standards, can be found in the applicable county zoning documents, or in the state Model Subdivision Regulations.”
- we need to recognize that some local jurisdictions may already have codes – we can reword that to be more accurate
- the perception may have grown that this is regulation, not guideline – it's enormous
- the purpose is to assist local governments through guidelines
- they may be guidelines, but there is a cost – if local jurisdictions don't adopt the guidelines, they don't get the grant money from DNRC
- revisions to the financial section will involve policy decisions
- what kind of money are we talking about?
- one example is the WUI Grant Program
- two suggestions: 1) treat these as guideline and take out the “best practices” terminology; 2) be clear about local adoption, change “shall” to “should” and emphasize that local jurisdictions need to pay attention to that language if adopting into code
- “best practices” is statutory mandate, so we have to keep it in
- the guidelines can make reference to other sources of information
- no, we need to import language from other sources so it's all in one place
- MACo will need to educate counties about these guidelines
- what if a local jurisdiction adopts these guidelines by reference, without implementing them, only to get the DNRC funding?
- we'd have to give it to them

### ***Editing group***

- to produce a good draft by January 4, how do we get there?
- we need one person to clean this up – incorporate all the comments and produce that draft
- let's get at the purpose and agree on it
- SB51: “best practices” and “criteria for financial aid”
- Scott can offer a couple days a week to produce the final draft
- but you won't have consensus – bring road standards and water supply to the session, and the result will be a train wreck
- how can we possibly address fire safety without talking about roads and water? we need to address them

- these are guidelines for local jurisdictions, to provide them with an option
- the goal now is to get a draft for legislators to look at – the rule-making activity, with hearing and public comment, will take place after the session
- Editing Group
  - Mike K
  - Scott W
  - Mark P
  - Pat C (maybe)
  - Myra S (maybe)
- the group will meet at 9 a.m. on November 20 in Missoula to incorporate all comments
- the outcome: a final draft going out to the distribution list by December 3, with comments due back by December 19